

From: Mark Gannon
To: Microsoft ATR
Date: 12/11/01 10:26am
Subject: Microsoft Settlement

Dear Sirs,

Your proposed settlement with Microsoft would have no impact on the competitive landscape and would result in no change to Microsoft's illegal monopoly practices.

Section III(J)(2) and III(D) allow Microsoft to limit access to its API to commercial concerns approved of by Microsoft. This is no change from the way that Microsoft behaves today. Many companies working closely with Microsoft are granted access to its source code.

Additionally, these sections prevent Open Source software products like Linux to have access the source code. The Samba Project (<http://www.samba.org>) allows Unix systems to interoperate with Microsoft Windows over a network. This package is key for many companies and organizations seeking to relief from Microsoft's onerous monopoly practices. Not only does Samba enable individual entities to avoid the monopoly, many businesses also use it as the foundation of products. For example, many vendors in the Network Attached Storage (NAS) market, use Linux and Samba as the core of their product.

Allowing Microsoft to determine who and how other organizations get access to their source codes and APIs means that this settlement would have no impact on the competitive landscape. Companies and organizations that wanted to avoid the Monopoly practices of Microsoft, would be unable to take advantage of this provision. Given the court's finding that Microsoft has illegally used its monopoly power, the only appropriate way to level the playing field is to require Microsoft to allow unrestricted access to all of its source code without any license restriction to everyone.

Regards,

Mark Gannon
mark@truenorth.nu